

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:10-CT-3048-BO

JOSEPH ZACKULAR,
Plaintiff,

v.

UNITED STATES OF AMERICA, et al.,
Defendants.

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ORDER

FILED


AUG 04 2010

DENNIS P. IAVARONE, CLERK
US DISTRICT COURT, EDNC
BY:  DEP CLK

On April 8, 2010, plaintiff filed a civil rights action pursuant to 42 U.S.C. § 1983. (D.E. # 1)
On August 2, 2010, the court received a document which shall be construed as a motion for
voluntary dismissal without prejudice. (D.E. # 4) The matter is ripe for determination.

Federal Rule of Civil Procedure 41(a)(1) allows for the dismissal of an action voluntarily by a
plaintiff through the filing of a notice of dismissal any time before service by the adverse party of an
answer or of a motion for summary judgment. As of this date, only the complaint has been filed.
Thus, upon full review of the matter, the court finds it appropriate to ALLOW the stipulation for a
voluntary dismissal without prejudice pursuant Rule 41(a)(1). In doing so the April 9, 2010, order
requiring payment of the entire \$350.00 filing fee is VACATED and the monies collected, if any,
must be returned to Zackular's trust fund account. The Clerk is DIRECTED to notify the
Department of Correction to cease drafting funds from Zackular's trust account for this case.

SO ORDERED, this the 4 day of August 2010.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE